

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION**

Call to Order: By **CHAIRMAN MACK COLE**, on March 2, 1999 at 10:00 A.M., in Room 331 Capitol.

ROLL CALL

Members Present:

Sen. Mack Cole, Chairman (R)
Sen. Don Hargrove, Vice Chairman (R)
Sen. Jon Tester (D)
Sen. Jack Wells (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Keri Burkhardt, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 188, HB 241, HB 258,
2/22/1999
Executive Action: HB 188, HB 241, HB 258

HEARING ON HB 258

Sponsor: REP. JOHN COBB, HD 50, AUGUSTA

Proponents: Deborah Smith, Montana Common Cause
Riley Johnson, Montana Broadcaster's Association
Mike Voeller, Montana Newspaper Association, Lee
Newspaper Association

Opponents: None

Information Witnesses: Linda Vaughey, Commissioner of Political Practices

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 14 - 29}

REP. JOHN COBB, HD 50, AUGUSTA, explained this bill appropriates 50,000 dollars for online internet access information collected by the Commissioners of Political Practices. The purpose is to slowly build internet access so people can see things on their web site. He handed out **EXHIBIT (sts47a01)**. The 50,000 dollars is not going to do very much. This bill just sets some money aside to help them get set up. Currently, their data base is different than the state data base and they pay 8,000 dollars a year for contract for that data base. Sooner or later they will need to get on the state data base. The Department of Administration wants to charge them between 12,000 and 18,000 dollars a year, so part of that 50,000 dollars will move them from what they have now. The system they have now will either fall apart or the state will not maintain that for them. They will have to have a private contractor maintain their data base for them. Part of this 50,000 dollars is going to allow them to move over and use the state system, which means the state will help fix it if something goes wrong. That is an ongoing cost. Currently, they are spending about 8,000 dollars to maintain there data base. It will cost between 12,000 to 18,000 dollars to move to the Department of Administration.

The rest of the money will help them to start developing their own web site. The Legislative Auditor's office, the Secretary of State's office, and some other private ones have already come to the Commissioner's office and offered to help with some things free of charge. He said he anticipates that the Commissioner will do what he or she can with the 50,000 dollars, and talk to different political parties and ask them what they want to do and how much they can help develop the system without spending a lot of money on it. The money may come from a settlement with the Federal Government. The Federal Government said social security may not have been paid properly on part-time employees. Currently, they are finishing negotiations with the Federal Government concerning the payback of social security. There are about 3 or 4 million dollars in the pot by the end of the year it will be settled. After everything is paid back and settled there ought to be about 450,000 dollars worth of interest left over. If the money comes in and there is a reversal back to the General Fund then the 50,000 dollars would come out to pay for this. Sooner or later when that system breaks down they are going to have to move to the Department of Administration. **EXHIBIT 1**

shows how they will implement online access. He explained many of the things listed will not have a cost, as many groups are willing to help. This will give them a start in putting things on the internet.

Proponents' Testimony:

Deborah Smith, Montana Common Cause, stated this is a measure to fund online access to Political Practice information that Common Cause has advocated for almost 10 years. This bill proposes it in a way that is feasible for this state to be able to pursue. It will provide useful access to the public, the press, and different organizations across Montana to get information that is currently only accessible if they travel to Helena and look through the Political Practices files.

Riley Johnson, Montana Broadcaster's Association, supports this bill. The media and print media are relying more and more on electronics. This would be a big help to the media. He explained that **Mike Voeller, Montana Newspaper Association, Lee Newspaper Association**, was unable to stay and attend the hearing but wanted to go on record in support of this bill and signed in as a proponent.

Informational Testimony:

Linda Vaughey, Commissioner of Political Practices, offered to answer any questions the committee may have for her.

Questions from Committee Members and Responses:

SEN. WELLS asked **Linda Vaughey** what kind of work load this puts in her office. **Linda Vaughey** explained most of the items would be transferred to simple files to be accessed by the web site. Most of the forms they will be reviewing for topical revisions and as they do it will be a fairly simple matter to upload them to a web site. The matter that will require the most care is the development of how best to bring online campaign access of reporting to the public.

SEN. WILSON asked if there was a Fiscal Note available. **REP. COBB** replied there was never a Fiscal Note. It has the 50,000 dollars appropriation. This is basically just putting them on with the Department of Administration and helping them to get a basic web site.

SEN. COLE asked how this will effect Mont Prime. **Tony Hebert, Administrator of the Information Services Division, Department of Administration (DOR)**, explained this bill has nothing to do with

Mont Prime. They currently have contracts with the office of Political Practices to support their office with local land administration needs. Under this proposal DOR would also provide for technical support of this system.

Closing by Sponsor:

REP. COBB closed.

HEARING ON HB 241

Sponsor: REP. BRENNAN RYAN, HD 41, GREAT FALLS

Proponents: Mike Cooney ,Secretary of State, Chief Election Administrator
Joe Kerwin, Deputy of Elections, Secretary of State

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 29 - 44}

REP. BRENNAN RYAN, HD 41, GREAT FALLS, brought this bill at the request of the Secretary of State's Office. It is an act allowing election administrators to accomplish registration and voting actions over the internet for over seas electors in the United States Service. Electors in the United States Service means a member of the Armed Services; in the active service this includes the spouse and dependents, a member of the Merchant Marines of the United States and his spouse and dependents, a member of a religious group or welfare agency assisting the Armed Forces of the United States that is officially attached to the Armed Forces and his spouse and dependents, and a citizen of the United States who is temporarily residing outside of the United States and his spouse and dependents when they are residing with him. Currently, Montana has about 7,200 citizens in the Armed Forces with over 5,300 dependents and family members, who are of voting age. There are also about 7,300 citizens overseas that are from Montana that are not affiliated with any Federal Group. This bill opens the doors to some technology. It shows commitment for Montanans and the people who are serving in the Armed Forces. This will not force or mandate anything on the counties to participate in the program. It will not force the counties' local election administrators to purchase any new equipment.

Proponents' Testimony:

Mike Cooney ,Secretary of State, Chief Election Administrator, this bill will only allow internet voting for members of the United States Service who are overseas at the time of voting. Before any voting over the internet could ever occur many steps must be taken. Technology to allow members of the United States Service to vote over the internet in secrecy must be developed. The administrative rules would be developed with the consultation of the election administrators and the public. These rules would spell out that members of the United States Service overseas could vote over the internet with the highest possible guarantee of secrecy. Counties that had the capabilities to participate could participate in this process, but would not be forced to purchase equipment to accomplish this. Montana has many people in the United States Services, family members who are of voting age, and citizens overseas who are not affiliated with Federal Government. He said he had the privilege of being one of two Secretaries of State in the nation to be asked by the Secretary of Defense to attend a conference at the Pentagon a couple of years ago. The point of the conference was to sit down with people from all over the country, involved in the election process, to try to figure out a way to allow our citizens overseas to vote. They could not figure out how to get ballots from citizens overseas. During the time of Desert Storm they were stuck with facsimile (fax) transmission, which did not offer a high level of security but they wanted to make every opportunity to ensure that people who were willing to cast their ballot that way would be able to. Through the development of technology they believe there is a great deal of technology allowing the privacy and the security of the ballots to be maintained and at the same time allow the citizens overseas to be fully involved in the election process. He submitted a letter from the Federal Voting Assistance Program, which is in the office of the Secretary of Defense **EXHIBIT(sts47a02)**, in which they point out their support for this bill. He explained they recommended changes in the proposed wording. The House noted that change and the bill has been amended to reflect their interest in the change.

Joe Kerwin, Deputy of Elections, Secretary of State, said he wanted to go over the process they envision for this. They modeled it after the same approach they took from fax balloting. First they studied the matter to find out if the technology was there. Then they had a working group set up with the clerk and recorders, various county election administrators, as well as any other citizens or groups that wanted to participate in those

proceedings. They came up with a set of administrative rules to guarantee the secrecy of the ballot as well as being accessible to voters as much as possible. They drafted those rules and made those rules are permissive. The counties do not have to participate with facsimile machine balloting but they may if they choose to. Twelve different counties in the state allow members of the military to vote by fax. It is not a huge number. In 1998 approximately 18 voters took advantage of this system. Under that system they can fax in their request for absentee ballots or fax in the entire ballot. This bill restricts it to just military overseas. They are more restrictive with the internet than they are with fax balloting. The reason for this is heightened by the fact that members of the military in the foreign service are playing a much more heightened role in our foreign relations than they have in the past. Many of these military people are in remote areas and making this service available could make the difference in whether they can vote in 1999 or 2000 election or not. This bill allows us to study this. It does not guarantee that it will happen. They have a lot of concerns they feel will have to be addressed first.

Questions from Committee Members and Responses:

SEN. TESTER asked why this should be limited to servicemen overseas. **Mr. Cooney** explained the Department of Defense asked them to participate. Although a lot of people think the technology is there to do this, perhaps they are better off taking this a small step at a time. It is a fairly complicated process to protect the vote that is going to be cast. In the future they will be looking at technologies like this to allow most people to cast their ballot. This is a good way to test it out and work out the "bugs" while addressing problems of those people who are somewhat removed from the process while they serve the country overseas. **SEN. TESTER** asked what the Fiscal cost is for setting up the program. **Mr. Cooney** replied that he does not believe there is any additional cost because they are not going to force anybody to comply with this. As long as it is done on a voluntary basis he is assuming that those people who would participate would be in a position to have the ability to participate, therefore, he does not anticipate there being an additional cost.

SEN. COLE asked why the bill says the rules are binding on the election administrators and yet it is voluntary. **Mr. Kerwin** said the rules are binding if they choose to participate, but they are not bound to participate.

Closing by Sponsor:

REP. RYAN explained why it is only military people. In the definition of "electors stationed overseas" the United States Service also includes a citizen of the United States temporarily residing outside the United States and his spouse and dependents residing with him. Therefore, it does cover more than just military people. This is a good bill. The people serving in the Armed Forces give us the right to vote in the first place and we owe it to them to accept their voting and registration through the internet.

{Tape : 1; Side : A; Approx. Time Counter : 44; Comments : Tape stopped}

HEARING ON HB 188

Sponsor: SEN. MIKE TAYLOR, SD 37, PROCTOR

Proponents: Mike Cooney, Secretary of State
Peter Blout, Director, Department of Commerce
____ Daniel Whyte, Chief Legal Council, Secretary of
State
____ Tony Hebert, Information Services Division,
Department of Administration
Evan Barrett, Montana Economic Developers'
Association
____ Chuck Christiansen, Montana State Fund
____ John Cadby, Montana Bankers' Association
____ Riley Johnson, National Federation of Independent
Business

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 48 - 57}

SEN. MIKE TAYLOR, SD 37, PROCTOR, explained this allows the state and local government to start the procedure of electronic commerce. This will be a great benefit to the state and a cost savings in the long run once it is implemented and the details are worked out. The highway contracts, for example, will be able to be approved quicker and would be a major component of the reason this bill should be passed. This will put Montana in line with some of the other states. There are many types of contracts and negotiations where electronic commerce will be a benefit.

Proponents' Testimony:

Mike Cooney, Secretary of State, stated during this session there has been a lot of concern about Montana's sagging economy. We can make use of computer technology, we can help businesses in their dealings with the state, and we can boost the efficiency of our state agencies. We can take all three of these steps by adopting the Montana Transaction With State Agencies Act. The Electronic Transactions Act gives state agencies the ability to serve Montanans more efficiently by accepting filings and signing contracts through the computer. In 1996 13 percent of American households were linked to the internet. In 1997 that number had grown to 18 percent. Experts expect this number to grow to 38 percent by the year 2001. Between 1995 and 1997 the number of adult internet users grew from 14.3 million to 42.5 million. internet commerce includes consumer retail and business to business transaction, online financial services, media, and consumer and business internet services. Between 1996 and 1997 the dollar value of this internet economy more than doubled, rising from 15.5 billion to 38.8 billion. By 2001, the total internet economy is projected to reach over 350 billion dollars. Developing electronic commerce in our state agencies will not only save our customers time, it will also provide a road map for Montana businesses to take part in this rapidly expanding market. The Act does not require all agencies to switch to electronic transaction. Instead it gives agencies the option of adopting electronic methods to accept filings and to sign contracts.

Some agencies will choose to adopt the electronic filing in the immediate future, while other agencies may prefer to wait and adopt these procedures after the first agencies have developed and experienced the program and guide the way. For a few agencies electronic filing may not be appropriate, but this Act takes an important step by opening the door for agencies to consider electronic commerce and by ensuring uniformity and security. If we develop electronic filing and contracting capabilities within our state agencies we will help Montanans do business quickly and easily. In addition, we will provide a model for electronic commerce that will help the private sector move farther in this area. The cost is minimal and the possible benefits are impressive.

Peter Blout, Director, Department of Commerce, stated technology is one of the major things that will assist the state in moving forward with our economy. It eliminates the barrier of isolation that we have suffered under for so long. Also, this is enabling legislation, which allows, rather than mandates. We strongly support this bill.

Daniel Whyte, Chief Legal Council, Secretary of State, said this bill is a technical bill in many ways. He explained some of the highlights of what it does specifically. This is enabling

legislation because it allows state agencies to contract amongst themselves or with private industry to use electronic commerce if they choose to. There are some state agencies that are not going to have enough money to adopt electronic commerce at this time. There is language in the bill that encourages state agencies to use electronic commerce. It is permissive and does not require a state agency or local government unit to do it if they are unable to. Section 2 encourages electronic filing of documents. This bill also defines electronic signatures under Section 3. They are unique to the person using it, capable of verification, and under sole control of the person using it. It would be just as if a person was signing a document but they would be able to do it over the internet. There are provisions in the bill for companies who can file with the Secretary of State's Office, known as Certification Authorities. They are the companies that keep the security over signatures.

{Tape : 1; Side : B; Approx. Time Counter : 57 - 74}

The Certification Authority that has to file with the Secretary of State's office is a group that would provide security with signatures, so they do not get passed over the internet. It also provides for security of documents, so documents that are sent over the internet are not changed along the way. There are a number of definitions that are current in the industry that we have adopted from other state's legislation that seemed to be adopted on a national level or are in the process of being adopted on a national level. The Secretary of State will regulate the certification authority to an extent. The Certification Authority will have to be bonded. They will have to tell them where they come from and who they are registered with, in case anyone who has his or her signature with this certification authority has a problem. Section 5 allows for state agencies to use and accept electronic records and signatures if they choose to. If they choose to use and accept electronic signatures they have to adopt rules that indicate how that will be done. Section 6, 7, and 8 are areas where an administrative hearings officer would have to accept electronic records as evidence. Assuming that there is some authenticity to these electronic records, we have incorporated into the bill that any contested case hearing in the state would provide that a hearings officer could look at those electronic records, and if they appear to be authentic, accept them as evidence. We have not put that on the Local District Courts or the Supreme Court because we have decided that they would prefer to make the choice on whether these electronic records are admissible as evidence. At this point it is at the state agency level. There are provisions in Section 11 for electronic records to be preserved, protected, transferred, and disposed of in accordance with Title Two, which is generally records management for the state. He

provided an amendment to the bill as a result the Supreme Court's decision in CI-75. The amendment takes out the contingent provision.

Tony Hebert, Information Services Division, Department of Administration, said the use of computers is rapidly changing the landscape of the business world. The internet connects over 120 million users. Just three years ago it connected about 20 million. Today over seven trillion electronic mail messages are sent over the internet each year. The predictions for the future all contain an emphasis on technology and electronic transactions as a greater part of everyday life. In 1997 there were about 7.8 billion business to business transactions and it is predicted that in the year 2000 there will be over 175 billion business to business electronic transactions. We need to be a part of this explosion. This bill provides the appropriate framework to ensure the electronic commerce conducted in the state is done in a secure and safe manner. It is flexible and not prescriptive. It also encourages electronic filing of documents for state agencies, much of which is happening today and will continue to happen in the future. The Information Technology Advisory Council, comprised of policy makers from agencies of state and local government, endorsed this bill as a good first step into a more formal electronic commerce environment.

Evan Barrett, Montana Economic Developers' Association, support this legislation. People are speaking everyday as they participate over the internet. This change is here and we need to embrace it. We like the bill in the sense that it is voluntary and we can get into it gradually. We also like the fact that it applies to local government because businesses in the state should not have to come to the Courthouse or the Capitol to take care of their transactions when they are trying to compete in a difficult economic environment. This recognizes the change that the people of this country are saying should take place.

Chuck Christiansen, Montana State Fund, explained the reason they support this bill. We deal with thousands of claims and policies renewals each year. With increasing options to do this electronically and more efficiently we believe this bill will help us increase the level of customer service we provide to our policy holders and employees across Montana.

John Cadby, Montana Bankers' Association, urged the committee's support.

Riley Johnson, National Federation of Independent Business, supports the bill.

Questions from Committee Members and Responses:

SEN. HARGROVE asked what local government discussion went on and why they were included late. **Mr. Whyte** explained local governments were included because they deal with state agencies and it encourages them to move toward electronic commerce as well. Private industry are starting into this and are pushing local government units to do this also. By including local government units in this bill it helps them to decide whether or not they want to get into electronic commerce at this time. It indicates to them that if they do not get involved in electronic commerce they do not have to be forced into it by private industry or other state agencies. **SEN. HARGROVE** asked if local governments have been part of the dialogue. He also asked if a few local government units decide they cannot make this step, is there "philosophically" a danger of the world passing them by and costing them more money in terms of administration and being able to work with the state. **Mr. Whyte** said he spoke with **Alec Hansen, Montana League of Cities and Towns**, and **Mr. Hansen** did not have a problem with it as long as it is permissive. **Mr. Whyte** added he thinks that it will pass anyone by who does not use it because the internet has grown and business is global. This strongly encourages local governments to use it. However, a government unit, who is using electronic commerce, cannot force one, who is not using electronic documents to use it. They must provide paper documents to them.

SEN. COLE stated the Fiscal Note mentions **HB 432**, which has to do with charging of fees. He asked if these bills were separated because of CI-75. **Mr. Whyte** replied that is correct. The certification authorities are required to file with us as a business entity which is already incorporated into our fees. The 300 dollar fee is the regulation fee. The Fiscal Note is there because of CI-75.

SEN. COLE asked **Mr. Blout** who will benefit from this in the business community. **Mr. Blout** replied that almost any business that does business with the state is going to benefit from this. By using the electronic commerce it will reduce the tremendous amount of paperwork. This will also give them the opportunity to learn how to use electronic commerce as it develops into the future. To have a pool of businesses in the state that are learning and becoming sophisticated in the use, is going to be a great advantage to the state in the long run. Regarding the participation of local government, the legislation was developed through a Subcommittee of the Information Technology Advisory Council. There is a member of the Montana Association of Counties (MACO) that participates in the Information Technology

Advisory Council. When this bill was brought forward, the individual representing MACO was supportive.

Closing by Sponsor:

SEN. TAYLOR explained the fax machine was an innovation a few years ago and now we need to make the next step. This uses less paper. Security is always a question. The banking community has shown their support for this legislation and they have already solved some of the security problems with Personal Identification Numbers (PIN) at cash machines. This is a step we need to take to put Montana in the next millennium.

{Tape : 1; Side : B; Approx. Time Counter : 74; Comments : Tape Stopped, Executive Action Not Recorded.}

EXECUTIVE ACTION ON HB 188

Motion/Vote: Motion made that **HB 188 BE CONCURRED IN AS AMENDED.**
Motion carried 5-0.

EXECUTIVE ACTION ON HB 241

Motion/Vote: Motion made that **HB 241 BE CONCURRED IN.** Motion carried 5-0.

EXECUTIVE ACTION ON HB 258

Motion: **SEN. WELLS** moved that **HB 258 BE CONCURRED IN.**

Discussion:

Committee discussed the \$50,000 dollar cost. This money would be excess money after the settlement. They are not planning to add staff at this time but using this portion of the settlement as seed money to get started.

Vote: Motion **carried 5-0.**

{Tape : 2; Side : A; Approx. Time Counter : 94-99}

DISCUSSION

A joint hearing would be held on **SJR 10** in room 325.

They discussed what CI-75 bills may be coming to committee.

ADJOURNMENT

Adjournment: 11:39 A.M.

SEN. MACK COLE, Chairman

KERI BURKHARDT, Secretary

MC/KB

EXHIBIT (sts47aad)